CMPMO No.30 of 2006.

1.5.2006. Present: Mr. D.D. Sood, Senior Advocate, with Mr. Paresh Sharma, Advocate, for the petitioners.

Mr. G.C. Gupta, Senior Advocate, with Mr. Mohinder Gautam, Advocate, for respondent No.1.

This petition has been filed under Article 227 of the Constitution of India by the two petitioners Mool Krishan Agarwal and Gopal Mohan Agarwal against respondent No.1 – H.P. State Cooperative Marketing and Consumer Federation and the proforma respondent No.2 Ranvir Sharma against the order dated 18th January, 2006 passed by the learned District Judge, Shimla in CMA No.13-S/14 of 2005. CMA No.13-S/14 of 2005 was filed by respondent No.1, being an appeal under Order 43 Rule 1 of the Code of Civil Procedure against an order dated 27th October, 2004 passed by the learned Civil Judge (Senior Division), Court No.1, Shimla which order was passed by the said learned Civil Judge in a suit filed by respondent No.1 against the two petitioners and the proforma respondent No.2. The dispute between the parties related to the right and user of a passage in front of a gate.

When this matter came up before this Court on 6th March, 2006 this Court with the consent of the parties had appointed a Local Commissioner for inspection etc. and also for ensuring that a workable solution is found to settle the controversy between the parties. The Local Commissioner Mr. Ajay Kumar, Advocate has filed his report dated 17th April, 2006 in which indeed he has succeeded in bring the parties to an amicable settlement.

Mr. D.D. Sood, learned Senior Counsel appearing for the petitioners and Mr. G.C. Gupta, learned Senior Counsel appearing for respondent No.1 have both submitted before me that report dated 17th April, 2006 filed by the Local Commissioner be accepted by this Court because their respective clients agree with this report in all respects. The learned counsel further submitted that based on this report, which may form a part of this judgment and which may be treated as binding between the parties, this petition be disposed of as settled. Mr. G.C. Gupta submitted that because of the aforesaid agreement between the parties emanating from the aforesaid report, respondent No.1 shall withdraw

the suit as well as the execution proceedings arising therefrom.

The petition is disposed of as settled. No order as to costs.

CMP No.57 of 2006.

In view of the disposal of the main petition, this application shall stand disposed of.

1st May, 2006. (V.K. Gupta), C.J.
(tr)